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U.S. COURT OF APPEALS  
FOR THE D.C. CIRCUIT

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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STATE OF NEW YORK, *ex. rel.*  
Attorney General ELIOT SPITZER,

STATE OF WISCONSIN, *ex. rel.*  
Attorney General JAMES E. DOYLE,

STATE OF FLORIDA, *ex. rel.*  
Attorney General ROBERT A. BUTTERWORTH,

STATE OF ILLINOIS, *ex. rel.*  
Attorney General JIM RYAN,

CIVIL ACTION NO. \_\_\_\_\_

DISTRICT OF COLUMBIA, *ex. rel.*  
Corporation Counsel ROBERT R. RIGSBY,

COMPLAINT

STATE OF MINNESOTA, *ex. rel.*  
Attorney General MIKE HATCH,

STATE OF ALASKA, *ex. rel.*  
Attorney General BRUCE M. BOTELHO,

STATE OF ARIZONA, *ex. rel.*  
Attorney General JANET NAPOLITANO,

STATE OF ARKANSAS, *ex. rel.*  
Attorney General MARK PRYOR,

STATE OF CALIFORNIA, *ex. rel.*  
Attorney General BILL LOCKYER,

STATE OF COLORADO, *ex. rel.*  
Attorney General KEN SALAZAR,

STATE OF CONNECTICUT, *ex. rel.*  
Attorney General RICHARD BLUMENTHAL,

STATE OF DELAWARE, *ex. rel.*  
Attorney General M. JANE BRADY,

STATE OF GEORGIA, *ex. rel.*  
Attorney General THURBERT E. BAKER,

STATE OF HAWAII, *ex. rel.*  
Attorney General EARL I. ANZAI,

STATE OF IDAHO, *ex. rel.*  
Attorney General ALAN G. LANCE,

STATE OF INDIANA, *ex. rel.*  
Attorney General KAREN M. FREEMAN-WILSON,

STATE OF IOWA, *ex. rel.*  
Attorney General THOMAS J. MILLER,

STATE OF KANSAS, *ex. rel.*  
Attorney General CARLA J. STOVALL,

COMMONWEALTH OF KENTUCKY, *ex. rel.*  
Attorney General A.B. CHANDLER III,

STATE OF MAINE, *ex. rel.*  
Attorney General ANDREW KETTERER,

STATE OF MARYLAND, *ex. rel.*  
Attorney General J. JOSEPH CURRAN, JR.,

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Attorney General JENNIFER GRANHOLM,

STATE OF MONTANA, *ex. rel.*  
Attorney General JOSEPH P. MAZUREK,

STATE OF NEBRASKA, *ex. rel.*  
Attorney General DON STENBERG,

STATE OF NEVADA, *ex. rel.*  
Attorney General FRANKIE SUE DEL PAPA,

STATE OF NEW HAMPSHIRE, *ex. rel.*  
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STATE OF NEW MEXICO, *ex. rel.*  
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STATE OF NORTH CAROLINA, *ex. rel.*  
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STATE OF NORTH DAKOTA, *ex. rel.*  
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STATE OF OKLAHOMA, *ex. rel.*  
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STATE OF OREGON, *ex. rel.*  
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COMMONWEALTH OF PUERTO RICO, *ex. rel.*  
Secretary of Justice ANGEL E. ROTGER SABAT,

STATE OF RHODE ISLAND, *ex. rel.*  
Attorney General SHELDON WHITEHOUSE,

STATE OF SOUTH CAROLINA, *ex. rel.*  
Attorney General CHARLIE CONDON,

STATE OF SOUTH DAKOTA, *ex. rel.*  
Attorney General MARK BARNETT,

STATE OF TENNESSEE, *ex. rel.*  
Attorney General PAUL G. SUMMERS,

STATE OF TEXAS, *ex. rel.*  
Attorney General JOHN CORNYN,

STATE OF UTAH, *ex. rel.*  
Attorney General JAN GRAHAM,

STATE OF VERMONT, *ex. rel.*  
Attorney General WILLIAM H. SORRELL,

COMMONWEALTH OF VIRGINIA, *ex. rel.*  
Attorney General MARK L. EARLEY,

STATE OF WASHINGTON, *ex. rel.*  
Attorney General CHRISTINE O. GREGOIRE,

STATE OF WEST VIRGINIA, *ex. rel.*  
Attorney General DARRELL V. McGRAW, JR.,

STATE OF WYOMING, *ex. rel.*  
Attorney General GAY WOODHOUSE,

Plaintiffs,

v.

HOFFMANN-LA ROCHE INC., ROCHE VITAMINS INC.,  
AVENTIS ANIMAL NUTRITION S.A.;  
DAIICHI PHARMACEUTICAL CO., LTD.;  
EISAI CO., LTD; TAKEDA CHEMICAL INDUSTRIES, LTD., and  
BASF CORPORATION,

Defendants.

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### COMPLAINT

Plaintiffs, the States, Commonwealths, and Districts of ALASKA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, FLORIDA, GEORGIA, HAWAII, IDAHO, ILLINOIS, INDIANA, IOWA, KANSAS, KENTUCKY, MAINE, MARYLAND, MICHIGAN, MINNESOTA, MONTANA, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW MEXICO, NEW YORK, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, PUERTO RICO, RHODE ISLAND, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, UTAH, VERMONT, VIRGINIA, WASHINGTON, WEST VIRGINIA, WISCONSIN, AND WYOMING ("Plaintiff States") bring this action in their sovereign capacities against the Defendants for monetary damages for proprietary purchases of vitamins and indirect vitamin products, civil penalties, and injunctive relief to compensate for injuries sustained as a result of Defendants' violations of the antitrust laws of the United States and the antitrust laws of the Plaintiff States. The Plaintiff States allege, upon information and belief (except as to Plaintiff and jurisdictional facts), the following:

## **I.**

### **NATURE OF THE ACTION**

1. The Plaintiff States allege that the Defendants engaged in a price-fixing conspiracy in violation of the antitrust laws of the United States and the antitrust laws of the Plaintiff States.
2. In summary, the alleged violation consisted of a ten-year conspiracy to fix and raise prices and to allocate market share and customers in the market for bulk vitamins. The effect of the conspiracy was to raise prices for vitamins and vitamin products.
3. The Plaintiff States bring this action in their sovereign capacity for damages arising from the direct and indirect purchases by the Plaintiff States of vitamins and products containing vitamins, for penalties and for injunctive relief.

## **II.**

### **JURISDICTION AND VENUE**

4. Plaintiff States bring this action under Section 4 and Section 16 of the Clayton Act, 15 U.S.C. §§ 15 and 26, to recover monetary relief for injuries sustained and for injunctive relief against Defendants' price-fixing conspiracies in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.
5. Venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(b) and (c), because the Defendants are found, reside or do business within the District of Columbia, or because the claims alleged arose, in part, in this judicial district.
6. The Complaint also alleges violations of various state antitrust and unfair trade practices statutes. All claims under federal and state law are based upon a common nucleus of operative facts and the entire action commenced by this Complaint constitutes a single case which would ordinarily be tried in one judicial proceeding.

7. This Court has pendent jurisdiction over the claims based upon state law. Pendent jurisdiction should be exercised in the interests of judicial economy, convenience and fairness.

### III.

#### THE PARTIES

8. The Plaintiff States are fully set forth and identified above.

9. Defendant Hoffmann-La Roche Inc. ("Roche Inc.") is a New Jersey corporation with operations in the United States, with its principal place of business in Nutley, New Jersey. Roche Inc. was engaged in the business of the distribution and sale of vitamins, vitamin premixes, and bulk vitamins throughout the United States and the world until at least 1997.

10. Defendant Roche Vitamins Inc. ("Roche Vitamins") is a Delaware corporation, with its principal place of business in New Jersey. Roche Vitamins is directly engaged in the business of the distribution and sale of vitamins, vitamin premixes, and bulk vitamin products throughout the United States and the world. Roche Inc. and Roche Vitamins are hereinafter collectively referred to as "Roche."

11. Defendant Aventis Animal Nutrition S.A. ("Aventis") is a French corporation, with its principal place of business in Antony, France. It was formerly known as Rhone-Poulenc Animal Nutrition S.A. Aventis, through its affiliates, is engaged in the business of the distribution and sale of vitamins, vitamin premixes, and bulk vitamin products throughout the United States and the world.

12. Defendant BASF Corporation ("BASF") is a Delaware corporation with operations in the United States, with its principal place of business in Mount Oliver, New Jersey. BASF Corporation is engaged in the business of the distribution and sale of vitamins, vitamin premixes and bulk vitamin products throughout the United States and the world.

13. Defendant Daiichi Pharmaceutical Co., Ltd. ("Daiichi") is a Japanese corporation with its principal place of business in Tokyo, Japan. Daiichi is engaged in the business of the distribution and sale of vitamins, vitamin premixes, and bulk vitamin products throughout the United States and the world.

14. Defendant Eisai Co., Ltd. ("Eisai") is a Japanese corporation with its principal place of business in Tokyo, Japan. Eisai is engaged in the business of the distribution and sale of vitamins, vitamin premixes, and bulk vitamin products throughout the United States and the world.

15. Defendant Takeda Chemical Industries, Ltd. ("Takeda") is a Japanese corporation with operations in the United States. Takeda, through its affiliates, is engaged in the business of the distribution and sale of vitamins, vitamin premixes and bulk vitamin products throughout the United States and the world.

16. The Defendants named in this Complaint are referred to herein as the "Defendants."

17. The acts charged in this Complaint as having been done by Defendants were authorized, ordered, or done by their officers, agents, employees, or representatives while actively engaged in the management of Defendants' business or affairs and acting within the scope of their authority.

18. Various other persons, companies and corporations, which have not been named as defendants, have participated as co-conspirators with Defendants in the violations alleged and have performed acts and made statements in the United States and elsewhere in furtherance thereof.

#### **IV.**

##### **TRADE AND COMMERCE**

19. Vitamins are organic compounds required in the diet of humans and animals for normal growth and maintenance of life. Vitamins are essential sources of certain coenzymes necessary for metabolism, the biochemical processes that support life. All known vitamins have been synthesized chemically, and such synthesized vitamins are manufactured and sold by the Defendants and their corporate co-conspirators. Vitamins are necessary for the normal and healthy growth and development of both humans and animals. Large quantities of vitamins are sold directly and indirectly to Plaintiff States.

20. Defendants are manufacturers, marketers, and distributors of vitamins (synthetic and natural, and in dry and oil form), vitamin premixes, and other vitamin products for sale throughout the United States. The manufacture of vitamins, vitamin premixes and other vitamin products is a multi-billion dollar a year industry worldwide. The North American market for vitamins used in animal nutrition alone is an over \$500 million a year industry.

21. Defendants are also engaged in the sale, marketing, and distribution of vitamins, vitamin premixes, and other vitamin products to manufacturers and distributors of products containing vitamins, including vitamin supplements designed for human consumption and vitamin enriched foods. Such products are purchased in large quantities by the Plaintiff States each year.

22. The activities of the Defendants in the regular, continuous, and substantial flow of interstate commerce have had and do have a substantial impact upon interstate commerce.

#### **V.**

##### **FIRST CLAIM FOR RELIEF**

23. Beginning not later than 1989, the Defendants and their co-conspirators entered into



and engaged in a combination and conspiracy to suppress competition by fixing the price, and allocating the markets and sales volumes, of vitamins, vitamin premixes, bulk vitamins and vitamin products offered for sale in the United States. Their conduct was an unreasonable restraint of trade in commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

24. The conspiracy engaged in by the Defendants and their co-conspirators consisted of a continuing agreement, understanding and concert of action among the conspirators to fix prices, allocate markets and volumes of sales, of vitamins, vitamin premixes, bulk vitamins, and other vitamin products in the United States.

25. The conspiracy engaged in by the Defendants affected at least the following vitamins during at least the time periods indicated:

- (i) vitamins A and E sold in the United States and elsewhere, from January 1990 into February 1999;
- (ii) vitamin B<sub>2</sub> (Riboflavin) sold in the United States and elsewhere, from at least January 1991 into at least Fall 1995;
- (iii) vitamin B<sub>5</sub> (CalPan) sold in the United States and elsewhere, from January 1991 into at least December 1998;
- (iv) vitamin C sold in the United States and elsewhere, from January 1991 into at least the late Fall 1995;
- (v) beta carotene sold in the United States and elsewhere, from January 1991 into at least December 1998; and,
- (vi) vitamin premixes sold to customers located throughout the United States, from January 1991 into at least December 1997.

26. The acts committed by the Defendants in establishing and in furtherance of the conspiracies violate federal and state antitrust law.

27. On May 20, 1999, F. Hoffmann-La Roche Ltd., affiliate of Hoffmann-La Roche Inc. and Roche Vitamins Inc., and BASF Aktiengesellschaft, parent of BASF Corporation, agreed to plead guilty to breaches of Federal Antitrust Law. Defendant Aventis avoided criminal prosecution in the United States for the illegal acts alleged in this Complaint by participating in the United States Department of Justice Corporate Leniency Program. On September 9, 1999, Daiichi Pharmaceutical Co. Ltd., Eisai Co., Ltd. and Takeda Vitamin & Food USA, agreed to plead guilty to breaches of Federal Antitrust Law.

## **VI.**

### **SECOND CLAIM FOR RELIEF**

28. Plaintiff State of Arizona repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

29. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Arizona Uniform State Antitrust Act, A.R.S. §§ 44-1401 *et seq.*

## **VII.**

### **THIRD CLAIM FOR RELIEF**

30. Plaintiff State of California repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

31. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of California's Cartwright Act, Cal. Bus. & Prof. Code §§ 16720 *et seq.*; and California's Unfair Competition Act, Cal. Bus. & Prof. Code §§ 17200 *et seq.*

**VIII.**

**FOURTH CLAIM FOR RELIEF**

32. Plaintiff State of Colorado repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

33. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of the Colorado Antitrust Act of 1992, § 6-4-104, Colo. Rev. Stat. (1999).

**IX.**

**FIFTH CLAIM FOR RELIEF**

34. Plaintiff State of Delaware repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

35. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of the Delaware Antitrust Act, 6 Delaware Code, Chapter 21, and Delaware's Uniform Deceptive Trade Practices Act, 6 Delaware Code, Subchapter 111, Sec. 2532.

**X.**

**SIXTH CLAIM FOR RELIEF**

36. Plaintiff District of Columbia repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

37. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of District of Columbia Antitrust Act, D.C. Code § 28-4501-4518 (1996 Rpl.).

**XI.**

**SEVENTH CLAIM FOR RELIEF**

38. Plaintiff State of Florida repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

39. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Florida Statutes §§ 501.201 *et seq.*; § 542.18.

**XII.**

**EIGHTH CLAIM FOR RELIEF**

40. Plaintiff State of Georgia repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

41. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Official Code of Georgia Annotated (OCGA) § 13-8-2, and the Georgia Fair Business Practices Act, OCGA §§ 10-1-390 *et seq.*

**XIII.**

**NINTH CLAIM FOR RELIEF**

42. Plaintiff State of Hawaii repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

43. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Hawaii Revised Statutes §§ 480-2, 480-4.

**XIV.**

**TENTH CLAIM FOR RELIEF**

44. Plaintiff State of Idaho repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

45. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Idaho Competition Act, Idaho Code §§ 48-101 *et seq.*, and the Idaho Consumer Protection Act § 48-603(18).

**XV.**

**ELEVENTH CLAIM FOR RELIEF**

46. Plaintiff State of Illinois repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

47. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Illinois Antitrust Act 740 ILCS 10/1 *et seq.*

**XVI.**

**TWELFTH CLAIM FOR RELIEF**

48. Plaintiff State of Indiana repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

49. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Indiana Code §§ 24-1-1-1 *et seq.*

**XVII.**

**THIRTEENTH CLAIM FOR RELIEF**

50. Plaintiff State of Iowa repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

51. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Iowa Competition Law, Iowa Code Chapter 553.

**XVIII.**

**FOURTEENTH CLAIM FOR RELIEF**

52. Plaintiff State of Kansas repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

53. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Kansas Statutes Annotated §§ 50-101 *et seq.*

**XIX.**

**FIFTEENTH CLAIM FOR RELIEF**

54. Plaintiff State of Maine repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

55. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of 10 Me. Rev. Stat. § 1101 *et seq.*; and 5 Me. Rev. Stat. § 205-A. *et seq.*

**XX.**

**SIXTEENTH CLAIM FOR RELIEF**

56. Plaintiff State of Maryland repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

57. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Md. Com. Law Code Ann. § 11-201 *et seq.*

**XXI.**

**SEVENTEENTH CLAIM FOR RELIEF**

58. Plaintiff State of Michigan repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

59. The aforementioned conspiracies by Defendants and their co-conspirators were and

are in violation of Michigan Antitrust Reform Act (MARA), Mich. Comp. Laws Ann. §§ 445.771 *et seq.* and Michigan Statutes Annotated §§ 28.70(1) *et seq.*

**XXII.**

**EIGHTEENTH CLAIM FOR RELIEF**

60. Plaintiff State of Minnesota repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

61. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Minn. Stat. §§ 325D.49 - 325D.66 (1998).

**XXIII.**

**NINETEENTH CLAIM FOR RELIEF**

62. Plaintiff State of Montana repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

63. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Montana Code Ann. § 30-14-205.

**XXIV.**

**TWENTIETH CLAIM FOR RELIEF**

64. Plaintiff State of Nebraska repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

65. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Neb. Rev. Stat. § 59-801 through 59-831 (1998) and Neb. Rev. Stat. § 59-1601 through 59-1623 (1998).

**XXV.**

**TWENTY-FIRST CLAIM FOR RELIEF**

66. Plaintiff State of Nevada repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

67. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Nevada Unfair Trade Practice Act, Nev. Rev. Stat. Chapter 598A.

**XXVI.**

**TWENTY-SECOND CLAIM FOR RELIEF**

68. Plaintiff State of New Hampshire repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

69. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of New Hampshire RSA 356.

**XXVII.**

**TWENTY-THIRD CLAIM FOR RELIEF**

70. Plaintiff State of New Mexico repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

71. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of § 1 of the New Mexico Antitrust Act, §§ 57-1-1 *et seq.*, NMSA 1978 (1995 Repl.).

**XXVIII.**

**TWENTY-FOURTH CLAIM FOR RELIEF**

72. Plaintiff State of New York repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.



73. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of N.Y. Gen. Bus. Law §§ 340 *et seq.*

**XXIX.**

**TWENTY-FIFTH CLAIM FOR RELIEF**

74. Plaintiff State of North Carolina repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

75. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of North Carolina General Statutes §§ 75-1, 75-1.1, 75-2.

**XXX.**

**TWENTY-SIXTH CLAIM FOR RELIEF**

76. Plaintiff State of North Dakota repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

77. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of North Dakota's Uniform State Antitrust Act, N.D. Cent. Code §§ 51-08.1-01 *et seq.*

**XXXI.**

**TWENTY-SEVENTH CLAIM FOR RELIEF**

78. Plaintiff State of Oregon repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

79. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Oregon Revised Statutes §§ 646.705 *et. seq.*

**XXXII.**

**TWENTY-EIGHTH CLAIM FOR RELIEF**

80. Plaintiff Commonwealth of Puerto Rico repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

81. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Commonwealth of Puerto Rico Antitrust Act of 1964, Laws of Puerto Rico Annotated, Title 10 §§ 257 *et seq.* (10 L.P.R.A. §§ 257 *et seq.*).

**XXXIII.**

**TWENTY-NINTH CLAIM FOR RELIEF**

82. Plaintiff State of Rhode Island repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

83. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Rhode Island Antitrust Act, R.I. Gen. Laws § 6-36-6.

**XXXIV.**

**THIRTIETH CLAIM FOR RELIEF**

84. Plaintiff State of South Dakota repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

85. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of South Dakota Codified Laws ch. 37-1.

**XXXV.**

**THIRTY-FIRST CLAIM FOR RELIEF**

86. Plaintiff State of Tennessee repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

87. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Tennessee Antitrust Act, Tenn. Code Ann. §§ 47-25-101 *et seq.*, and the Tennessee Consumer Protection Act, Tenn. Code Ann. §§ 47-18-101 *et seq.*

**XXXVI.**

**THIRTY-SECOND CLAIM FOR RELIEF**

88. Plaintiff State of Texas repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

89. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Texas Free Enterprise and Antitrust Act of 1983, Tex. Bus. & Com. Code §§ 15.01 *et seq.*

**XXXVII.**

**THIRTY-THIRD CLAIM FOR RELIEF**

90. Plaintiff State of Vermont repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

91. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of the Vermont Consumer Fraud Act, 9 VSA §§ 2451 *et seq.*

**XXXVIII.**

**THIRTY-FOURTH CLAIM FOR RELIEF**

92. Plaintiff Commonwealth of Virginia repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

93. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Virginia Antitrust Act, Va. Code §§ 59.1-9.1 *et seq.*

**XXXIX.**

**THIRTY-FIFTH CLAIM FOR RELIEF**

94. Plaintiff State of Washington repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

95. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of the Washington Consumer Protection Act, RCW 19.86.030.

**XL.**

**THIRTY-SIXTH CLAIM FOR RELIEF**

96. Plaintiff State of West Virginia repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

97. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of the West Virginia Antitrust Act, W. Va. Code §§ 47-18-1 *et seq.* and the West Virginia Consumer Credit and Protection Act, W. Va. Code §§ 46A-1-101 *et seq.*

**XLI.**

**THIRTY-SEVENTH CLAIM FOR RELIEF**

98. Plaintiff State of Wisconsin repeats and realleges each and every allegation contained in paragraphs 1-27 with the same force and effect as if here set forth in full.

99. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Wisconsin Trusts and Monopolies Law, Wis. Stat. §§ 133.03(1) and 133.16; Wisconsin Marketing; Trade Practices, Wis. Stat. § 100.20.

**XLII.**

**THIRTY-EIGHTH CLAIM FOR RELIEF**

100. Plaintiff State of Wyoming repeats and realleges each and every allegation contained

in paragraphs 1-27 with the same force and effect as if here set forth in full.

101. The aforementioned conspiracies by Defendants and their co-conspirators were and are in violation of Wyoming Statutes § 40-4-101 *et seq.* and § 40-12-101 *et seq.*

### **XLIII.**

#### **EFFECTS**

102. The unlawful contracts, combinations, and conspiracies of the Defendants have had the following effects among others:

- a) Price competition in the sale of vitamins and vitamin products has been restrained, suppressed and eliminated throughout the United States;
- b) Prices for vitamins and vitamin products sold by the Defendants and their co-conspirators have been raised, fixed, maintained and stabilized at artificially high and noncompetitive levels throughout the United States;
- c) The Plaintiff States, who purchase significant amounts of vitamins and vitamin products, have paid more for these products than they would have paid in a truly competitive market;
- d) Markets and customers have been divided among the Defendants such that Plaintiff States have not been able to purchase vitamins at prices they would have paid in a truly competitive market.

103. Each of these acts resulted in the illegal restraint of trade and commerce and acted to destroy free and open competition in our market system and, thereby, resulted in increased costs and the deterioration in quality of commodities and services to the Plaintiff States.

104. As a direct and proximate result of the Defendants' unlawful conduct, the Plaintiff States have been irreparably harmed and injured in their business and property.

### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff States pray that the Court:

1. Adjudge and decree that the Defendants have engaged in an unlawful contract, combination and conspiracy, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.
2. Adjudge and decree that the Defendants have engaged in unlawful conduct in violation of the state statutes referred to herein.
3. Enter judgment in favor of the Plaintiff States, in their sovereign capacities, and against the Defendants, jointly and severally, for the damages determined to have been sustained by them as a result of the Defendants' violation of the above-referenced federal and state antitrust laws.
4. Enter judgment against each Defendant for the maximum penalty allowed under those state statutes referred to herein.
5. Enjoin the Defendants or their designated affiliate from continuing or repeating the unlawful combination or conspiracies alleged herein or other appropriate injunctive relief.

## JURY TRIAL DEMAND

Plaintiffs demand trial by jury pursuant to Rule 38(b) of the Federal Rules of Civil

Procedure on all issues triable of right by a jury.

Dated: December 5, 2000

ROBERT R. RIGSBY  
Corporation Counsel, D.C.

Sharon Styles Anderson/BR  
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